

REMARKS

Claims 1-4 and 38, as amended herein, and new claims 42-44 are presented for examination.

35 U.S.C. § 112 Rejection

Claims 1-4 and 38 were rejected under 35 U.S.C. § 112, second paragraph. The Examiner contended that “it is not clear how the recited steps in the body of the claim achieve the ‘trading financial interests’ as recited in the preamble.” Claims 1 and 38, as amended herein, address this rejection. It is submitted that claims 1-4 and 38, and new claims 42-44 satisfy 35 U.S.C. § 112 in all respects. Withdrawal of the Section 112 rejection is respectfully requested.

35 U.S.C. §103 Rejection

Claims 1-4 and 38 were rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,915,209 (“Lawrence”) in view of BuyTextile.com (“BuyTextile”) (a four page printout provided by the Office).

In the method defined in claims 1 and 38, as amended, terms are received for a proposed auction, a deadline for deciding the proposed auction is set, and information related to the proposed auction is provided, prior to the proposed auction, to prospective participants in the proposed auction. In addition, the method defined in claims 1 and 38 provides for receiving at least one proposed non-auction transaction, and identifying the at least one proposed non-auction transaction as an entry in the proposed auction but not to the prospective participants prior to the proposed auction.

As recognized by the Examiner, Lawrence does not disclose receiving terms for at least one proposed non-auction transaction as an entry in a proposed auction. However,

the Examiner apparently contends that BuyTextile's disclosure of a buy it now price satisfies the claim limitations (as originally filed) of receiving terms for at least one proposed non-auction transaction and identifying the proposed non-auction transaction as an entry in the proposed auction.

Applicants traverse the rejection of originally filed claims 1 and 38 at least because (1) the method and system defined in original claims 1 and 38 call for a proposed "non-auction" transaction, which it is submitted is not disclosed in BuyTextile, and (2) under *KSR International Co. v. Teleflex Inc.*, ___ US ___ (2007), it would not be obvious to combine the Lawrence system with the BuyTextile system, even if the combination resulted in the invention claimed in claims 1 and 38, which, it is submitted, is not the case.

However, to advance prosecution, Applicants have amended claims 1 and 38, but reserve the right to reintroduce original claims 1 and 38, as well as any cancelled claim, or similar subject matter, in a continuing application.

As amended, claims 1 and 38 specify that, among other things, information related to the proposed auction be provided, prior to the proposed auction, to prospective participants in the proposed auction and that, with respect to the proposed non-auction transaction, it be identified as an entry in the proposed auction but not to the prospective participants prior to the proposed auction¹, which it is submitted is not disclosed or suggested by BuyTextile. (See, e.g., the top of page 3 of the BuyTextile reference.) Since all of the steps in the method defined in amended claims 1 and 38 are not disclosed in either Lawrence or BuyTextile, and there is no suggestion in either or any prior art of

¹ See, e.g., Fig. 39 of the application for an embodiment of the method claimed in claims 1 and 38.

record to modify either Lawrence or BuyTextile to include all of the limitations of amended claims 1 and 38, the combination does not render the method claimed in amended claims 1 and 38 unpatentable.

Claims 2-4 and 42-44 are dependent respectively on claims 1 and 38. It is submitted that these claims are allowable at least for the reasons advanced for the allowance of claims 1 and 38. Since it is believed that these dependent claims are allowable at least for the reasons discussed above, arguments directed to the allowability of these claims for other reasons will not be presented herein, although the Applicants reserve the right to do so later in this or a subsequent proceeding.


Closing

It is submitted that the application is in condition for allowance with claims 1-4, 38 and 42-44. Reconsideration and allowance of the application with those claims are respectfully requested.

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Respectfully submitted,



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